

**BEFORE THE ARIZONA STATE VETERINARY MEDICAL
EXAMINING BOARD**

IN THE MATTER OF:) Case No.: 18-17
IVAN WEINSTEIN, DVM)
Holder of License No. 2021) FINDINGS OF FACT,
For the practice of Veterinary) CONCLUSIONS OF LAW
Medicine in the State of Arizona,) AND ORDER
Respondent.)

On February 21, 2018 and March 21, 2018, the Arizona State Veterinary Medical Examining Board conducted an Informal Interview regarding Ivan Weinstein DVM ("Respondent"). The proceedings in this matter are governed by A.R.S. § 32-2234 (A). Respondent was advised of his right to legal counsel by letter, appeared, and participated in the Informal Interview with counsel, David Stoll. The Board reviewed all documents submitted regarding this matter, took testimony from Respondent, and proceeded as is permitted by A.R.S. § 32-2234 (A).

Following the Informal Interview and the Board's discussion of the information and documents submitted, the Board determined that Respondent's conduct constituted unprofessional conduct pursuant A.R.S. § 32-2232 (21) as it relates to A.A.C. R3-11-501 (1) professionally acceptable procedures and ARS § 32-2232 (21) medical record keeping. After considering all of the information and testimony, the Board issues the following Findings of Fact, Conclusions of Law and Order, ("Order").

FINDINGS OF FACT

1 1. Respondent is the holder of License No. 2021 issued on August 9, 1990,
2 and is therefore authorized to practice the profession of veterinary medicine in
3 the State of Arizona.

4 2. On June 27, 2017, "Abby," a 16-week-old female Golden Doodle was
5 presented to Respondent due to lethargy and vomiting. Upon exam, the dog
6 had a weight = 19.9 pounds, a temperature = 101.7 degrees, a heart rate =
7 140bpm and a respiration rate = 30rpm. According to Respondent, radiographs
8 were performed and showed evidence of a possible stomach foreign body. A
9 barium study was performed and confirmed the diagnosis of a foreign body
10 being present in the stomach. Respondent discussed his findings with
11 Complainant and recommended exploratory surgery to remove the foreign
12 body. Complainant approved and requested the dog be spayed at the same
13 time; Respondent agreed.

14 3. Blood was collected for testing. According to Respondent, an IV catheter
15 was placed in the dog; however, it is not documented in the medical record.
16 Respondent also stated in his narrative that IV fluids were administered;
17 however, it is not documented in the medical record. The dog was pre-
18 medicated with Atropine, 1mL SQ, induced with ketamine 50mg and
19 midazolam 2.5mg IV, intubated and maintained on a gas anesthetic (type
20 unknown). The dog was administered metacam 0.36 (mg or mL?) SQ and PenG
21 1.0 (mg or mL?) SQ.

22 4. A midline incision was made and intestines were exteriorized; gastrotomy
23 was uneventful and enterotomy incision was made which revealed a squeaky
24 toy. The toy was removed and Respondent noted a large amount of intestinal
25 adhesions. The spay procedure was also performed; the dog's abdomen was

1 closed and she was placed in recovery. The dog was under anesthesia from
2 1:20pm until 3:15pm; despite warm buddies being placed with the dog during
3 the procedure, the temperature dropped to 95 degrees. Respondent noted in
4 the medical record that the facility does not keep a surgery table warmer
5 during any surgery. Complainant disputed this.

6 5. The dog was placed in recovery and monitored by a technical staff
7 member while still intubated and on IV fluids. The technical staff member noted
8 that she could not hear a heartbeat and CPR was initiated – 2mLs of
9 epinephrine IV and oxygen. Respiratory arrest occurred and the dog was
10 administered 1mL of dopram IV; CPR was unsuccessful and the dog passed
11 away.

12 6. At 4:30pm, according to Complainant, she had not heard from
13 Respondent; therefore, she contacted the facility to see how the dog was
14 doing. She was placed on hold for staff to ask Respondent, Respondent came
15 to the phone and told Complainant that he meant to call her but had been
16 busy; he explained that the dog passed away approximately 45 minutes prior.
17 Respondent continued to say that there were adhesions and a blood clot had
18 gone to her lungs which caused the death of the dog. The phone went dead
19 and Respondent did not call her back.

20 7. According to Respondent, Complainant was called and told about the
21 death of the dog; she was upset and hung up on him.

22 8. A necropsy was performed on the dog and revealed that the cause of
23 death could not be determined. An anesthesia specialist also reviewed the
24 case and noted that there were no obvious documented reasons for the death
25 of the dog.

CONCLUSIONS OF LAW

9. The Arizona State Veterinary Medical Examining Board has jurisdiction over this matter pursuant to A.R.S. § 32-2201, et seq.

10. The conduct and circumstances described in the Findings of Fact above, constitutes a violation of **A.R.S. § 32-2232 (12)** as it relates to **A.A.C. R3-11-501**
(1) failure to provide professionally acceptable procedures by proceeding with an elective procedure knowing the dog was hypothermic.

11. The conduct and circumstances described in the Findings of Fact above, constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **AAC R3-11-502 (H)**

(1) no signed authorization was obtained before general anesthesia was administered or surgery was performed.

12. The conduct and circumstances described in the Findings of Fact above, constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502 (L) (7)** failure to document in the medical record the general anesthesia and IV fluids administered to the dog.

13. The conduct and circumstances described in the Findings of Fact above, constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502 (L) (7)(a)** failure to document in the medical record the concentration of metacam, Pen G, acepromazine and atropine administered to the dog.

14. The conduct and circumstances described in the Findings of Fact above, constitutes a violation of **A.R.S. § 32-2232 (21)** as it relates to **A.A.C. R3-11-502 (L) (7)(b)** failure to document in the medical record the amount of metacam, Pen G, acepromazine and atropine administered to the dog.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is
ORDERED that Respondent's License, No. 2021 be placed on **PROBATION** for a period of two (2) years, subject to the following terms and conditions that shall be completed within the Probationary period. These requirements include twelve (12) total hours of continuing education (CE) and a civil penalty detailed below:

1. IT IS ORDERED THAT Respondent shall provide written proof satisfactory to the Board that he has completed eight (8) hours of continuing education (CE); hours earned in compliance with this order shall not be used for licensure renewal. Respondent shall satisfy these eight (8) hours by attending CE in the area of anesthetic complications. Respondent shall submit written verification of attendance to the Board on or before the end of the Probation period.

2. IT IS ORDERED THAT Respondent shall provide written proof satisfactory to the Board that he has completed four (4) hours of continuing education (CE); hours earned in compliance with this order shall not be used for licensure renewal. Respondent shall satisfy these four (4) hours by attending CE in the area of medical record keeping. Respondent shall submit written verification of attendance to the Board for approval on or before the end of the Probation period.

3. IT IS FURTHER ORDERED THAT Respondent shall pay a civil penalty of two thousand five hundred dollars (\$2500) on or before the end of the Probation period. The civil penalty is comprised of \$500 per each of the five violations found. Civil penalty shall be made payable to the Arizona State Veterinary Medical Examining Board and is to be paid by **cashier's check** or **money order**.

1 4. All continuing education to be completed for this Order shall be pre-
2 approved by the Board. Respondent shall submit to the Board a written outline
3 regarding how he plans to satisfy the requirements in paragraphs 1 and 2 for its
4 approval within sixty (60) days of the effective date of this Order. The outline
5 shall include CE course details including, **name, provider, date(s), hours of CE** to
6 be earned, and **a brief course summary**.

7 5. Respondent shall obey all federal, state and local laws/rules governing
8 the practice of veterinary medicine in this state.

9 6. Respondent shall bear all costs of complying with this Order.

10 7. This Order is conclusive evidence of the matters described and may be
11 considered by the Board in determining an appropriate sanction in the event a
12 subsequent violation occurs. In the event Respondent violates any term of this
13 Order, the Board may, after opportunity for Informal Interview or Formal
14 Hearing, take any other appropriate disciplinary action authorized by law,
15 including suspension or revocation of Respondent's license.

16

17 **REHEARING/APPEAL RIGHTS**

18 Respondent has the right to petition for a rehearing or review of this Order.
19 Pursuant to A.R.S. § 32-2234 (H) and § 41-1092.09 the petition must be filed with
20 the Board within thirty-five (35) days from the date of mailing if the Order was
21 served via certified mail. Pursuant to A.A.C. R3-11-904 (C), the petition must set
22 forth legally sufficient reasons for granting the rehearing or review. The filing of
23 a petition for rehearing or review is required to preserve any rights of appeal to
24 the Superior Court that the party may wish to pursue.

1 This Order shall be effective and in force upon the expiration of the above
2 time period for filing a motion for rehearing or review with the Board. However,
3 the timely filing of a motion for rehearing or review shall stay the enforcement
4 of the Board's Order, unless, pursuant to A.A.C. R3-11-904 (F), the Board has
5 expressly found good cause to believe that this Order shall be effectively
6 immediately upon the issuance and has so stated in this Order.

Dated this 26th day of May, 2018.

Arizona State Veterinary Medical Examining Board
Jim Loughead
Chairman

By: 
Victoria Whitmore, Executive Director

Original of the foregoing filed this 26th day of March, 2018
with the:

18 Arizona State Veterinary
19 Medical Examining Board
20 1740 W. Adams St., Ste. 4600
Phoenix, Arizona 85007

22 Copy of the foregoing sent by certified, return receipt mail
this 2nd day of March, 2018 to:

Ivan Weinstein, DVM
Address on file
Respondent

1 Copy of the foregoing sent by regular mail
2 this 26th day of March, 2018 to:

3 David Stoll, Esq.
4 Beaugureau, Hancock, Stoll and Schwartz, PC
5 302 E. Coronado Rd
Phoenix, Arizona 85004

6 By: I. Weinstein
7 Board Staff